

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

## UNITED STATES DISTRICT COURT

United States Courts  
Southern District of Texas  
**FILED**

for the

Southern District of Texas



DEC 21 2023

Houston Division

Nathan Ochsner, Clerk of Court

Brandon E. O'Neal

Case No. \_\_\_\_\_

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

City of Houston,  
Houston Fire Department,  
Fire Chief Samuel Peña

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

**COMPLAINT FOR EMPLOYMENT DISCRIMINATION****I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Brandon E. O'Neal
Street Address	4818 Snell Way
City and County	Iowa Colony, Brazoria County
State and Zip Code	Texas, 77583
Telephone Number	7132083762
E-mail Address	oneal_brandon@att.net

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

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**Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination**

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**Defendant No. 1**

Name City of Houston

Job or Title *(if known)*

Street Address P.O. Box 368

City and County Houston, Harris County

State and Zip Code Texas, 77001-0368

Telephone Number (832) 393-6491

E-mail Address *(if known)***Defendant No. 2**

Name Houston Fire Department

Job or Title *(if known)*

Street Address 500 Jefferson, 17th Floor

City and County Houston, Harris County

State and Zip Code Texas, 77002

Telephone Number (832) 394-6700

E-mail Address *(if known)***Defendant No. 3**

Name Samuel Peña

Job or Title *(if known)* Fire Chief

Street Address 500 Jefferson, 17th Floor

City and County Houston, Harris County

State and Zip Code Texas, 77002

Telephone Number (832) 394-6700

E-mail Address *(if known)* samuel.pena@houstontx.gov**Defendant No. 4**

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

**C. Place of Employment**

The address at which I sought employment or was employed by the defendant(s) is

Name	Houston Emergency Center
Street Address	5320 N Shepherd
City and County	Houston, Harris County
State and Zip Code	Texas, 77091
Telephone Number	(713) 884-3143

**II. Basis for Jurisdiction**

This action is brought for discrimination in employment pursuant to *(check all that apply)*:



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

*(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)*



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

*(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*



Other federal law *(specify the federal law)*:



Relevant state law *(specify, if known)*:

Libel, Texas Civil Practice and Remedies Code § 73.001



Relevant city or county law *(specify, if known)*:

**III. Statement of Claim**

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☒ Other acts *(specify)*: Failure to accommodate my religion

*(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)*

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

10/18/2022, 12/3/2022, 1/22/2023, 2/8/2023, 4/9/2023 - current, 9/19/2023

C. I believe that defendant(s) *(check one)*:

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race \_\_\_\_\_
- ☐ color \_\_\_\_\_
- ☐ gender/sex \_\_\_\_\_
- ☒ religion Christian (non-denominational)
- ☐ national origin \_\_\_\_\_
- ☐ age *(year of birth)* \_\_\_\_\_ *(only when asserting a claim of age discrimination.)*
- ☐ disability or perceived disability *(specify disability)* \_\_\_\_\_

E. The facts of my case are as follows. Attach additional pages if needed.

See attachment for fact of my case and Exhibit "A" - EEOC Right to Sue Notice

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*(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)*

#### IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date) 1/18/2023
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- B. The Equal Employment Opportunity Commission (check one):

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on (date) 09/29/2023.

*(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)*

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

#### V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

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See attachment for Relief Statement

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

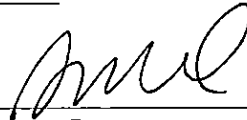
### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12/21/2023

Signature of Plaintiff

Printed Name of Plaintiff



Brandon E. O'Neal

### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Houston District Office  
1919 Smith Street, 6th Floor  
Houston, TX 77002  
(346) 327-7700  
Website: [www.eeoc.gov](http://www.eeoc.gov)

### **DETERMINATION AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 09/29/2023

To: Mr. Brandon E. ONeal  
4818 Snell Way  
IOWA COLONY, TX 77583  
Charge No: 460-2023-01561

EEOC Representative and email: CARINE JEAN-MARIE  
Federal Investigator  
[carine.jean-marie@eeoc.gov](mailto:carine.jean-marie@eeoc.gov)

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### **DETERMINATION OF CHARGE**

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

### **NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 460-2023-01561.

On behalf of the Commission,

Digitally Signed By: Rayford O. Irvin  
09/29/2023

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Rayford O. Irvin  
District Director

Complaint for Employment Discrimination Brandon O'Neal v. City of Houston Attachment

**III. Statement of Claim**

**E.**

1. Plaintiff is a 38 year old African-American man who is a devoted non-denominational Christian. Plaintiff has been employed by the Houston Fire Department since 2007 and has been assigned to the Dispatch Division, Office of Emergency Communications ("OEC") at the Houston Emergency Center ("HEC") since 2014. Plaintiff is still currently employed at this location as a dispatch supervisor, Senior Communication Captain.
2. On August 4, 2022, the Plaintiff requested to be accommodated from the clean-shaven policy due to religious observances that require having a beard.
3. Plaintiff wrote to the Defendants and requested changes to policies in the uniform guideline that were discriminatory for himself and other members on August 25th, 2022.
4. In retaliation, on October 18, 2022, Plaintiff was ordered to clean-shave despite accommodation requests and warned of forthcoming disciplinary action including indefinite suspension, if he did not comply.
5. Plaintiff was discriminated against on the basis of religion by the Defendants with an unjust denial of a reasonable accommodation from the clean-shaven policy on December 3, 2022.
6. Since the Plaintiff has been assigned to the dispatch division, he has witnessed other employees allowed medical accommodations, including those for facial hair.
7. On January 18, 2023, a Charge of Discrimination was filed with the Equal Employment Opportunity Commission ("EEOC") alleging religious discrimination and retaliation. On September 29, 2023 a Notice of Right to Sue letter was issued by the EEOC.



Complaint for Employment Discrimination Brandon O'Neal v. City of Houston Attachment

See attached Exhibit "A" - EEOC Right to Sue Notice

8. On January 22, 2023, in retaliation, the Plaintiff was harassed by being ordered by the Defendants to clean-shave despite his religious observances. The Plaintiff refused to clean shave and was again warned of forth-coming discipline if he did not comply.
9. In retaliation of refusal to abandon his religious observance, the Plaintiff was formally reprimanded on February 8, 2023. This led to a suspension on September 11, 2023 through September 13, 2023. The Plaintiff had no other discipline in his 16 year work history with the employer.
10. In retaliation for refusing to abandon his religious observance, the Plaintiff was relieved of duty on April 9, 2023, as the Plaintiff arrived at work for a pre-scheduled overtime assignment. The Plaintiff was replaced with another member to fill the vacancy.
11. On April 10, 2023, in retaliation, the Plaintiff was harassed again by being called in to work overtime only to be relieved of duty upon arrival to work. Because the Plaintiff refused to abandon his religious observance he was replaced with another member to fill the vacancy.
12. In like manner, the Plaintiff arrived for pre-scheduled or call-in overtime for June 18, 2023, June 20, 2023, July 24, 2023 and December 20, 2023 to be relieved of duty upon arrival and replaced because of his religious observance.
13. To further harassment, on September 19, 2023, after the suspension, the Plaintiff was ordered to meet with the Fire Department Chaplain by the Defendants upon returning to work, which produced a false report addressed to the Fire Chief, defaming the Plaintiff and declaring his faith's beliefs to be insincere.

Complaint for Employment Discrimination Brandon O'Neal v. City of Houston Attachment

14. On October 11, 2023, in an appeal against the suspension, the Police and Firefighters Civil Service Commission overruled the suspension, on the account of there being no undue hardship. In retaliation to the appeal, the Defendants refuse to accommodate the Plaintiff and continue to not allow him to work overtime assignments.

**V. Relief**

Plaintiff, Brandon E. O'Neal, respectfully requests that this Court enter judgment against the Defendant and provide the following relief:

1. Award actual damages, including appropriate amounts of back pay and front pay, continuation of not allowing plaintiff to work overtime assignments and the money lost from the failure to accommodate. \$30,710.50
2. Award compensatory for religious discrimination, retaliatory discharges, unjust suspension, libel, and hostile work environment. The defendant's misconduct are grossly negligent and intentional to plaintiff requiring religious accommodation \$250,000
3. Award costs and cost for attorney
4. Award expungement of negative files resulting from discrimination and retaliation from employee's personnel records.
5. Grant any and all appropriate relief, which the Court deems necessary and appropriate.